

§ 11.44

44 CFR Ch. I (10–1–01 Edition)

(2) Rights available under this section;

(3) Opportunity to inspect and copy the records relating to the debt;

(4) Opportunity for review within the Agency with respect to the debt; and

(5) Opportunity to enter into an agreement with the ACO with respect to the debt. Such agreement may include voluntary but nonrevocable withholding of monies due from the United States to the debtor.

(c) *Review within the Federal Emergency Management Agency.* The debtor may request, within sixty calendar days after mailing or hand-delivery of the written notice specified in paragraph (b) of this section, review within the Agency as to the existence or amount of the debt or terms of repayment. An attorney in the Office of General Counsel, acting as an Administrative Review Official (ARO), shall conduct the review. The ARO may determine that no debt is due, that the amount of the debts should be reduced, that terms of repayment should be set, or that the demanded amount should be paid in full.

(1) If the debtor has made a timely request for a review within the Agency, then FEMA shall stay any offsets until the ARO has rendered a decision. However, interest, penalties and administrative charges, as specified in § 11.48, shall continue to accrue during the pendency of the review within the Agency. If the debtor files a request for a review within the Agency after the 60 days specified above, then FEMA shall continue with the offset action. However, if the ARO finds that the debtor owes less than the amount offset, then FEMA will refund the amount over-withheld. For purposes of determining whether the debtor has filed a timely request for administrative review, the date of FEMA's receipt of the debtor's request establishes the time of filing.

(2) The ARO shall transmit the decision on the debtor's request for review within the Agency. The ARO may contact the debtor directly to request additional information and data in order to allow the ARO to reach a knowledgeable decision. The ARO's decision shall be final insofar as FEMA's administrative processing of the debt is concerned.

(3) FEMA shall use procedures in this section to decide debtors' requests for review within FEMA under the provisions of § 11.64(d).

(d) If the debtor does not execute a written agreement, if the debtor does not request review within the Agency, or if the review within the Agency determines that a debt is due, then FEMA shall use administrative offset against monies payable by the United States in accordance with this section and appropriate regulations. However, if a statute or FEMA agreement either prohibits or explicitly provides for collection through administrative offset for the debt or the type of debt involved then the provisions of that statute or FEMA agreement rather than the provisions of this section shall be used for such offset.

(e) If the debtor has a judgment against the United States, then notice shall be provided to the General Accounting Office for offset in accordance with 31 U.S.C. 3728.

(f) In addition to administrative offset remedies described above, FEMA may use its rights to collect debts by offsets conducted under principles of common law.

(g) The debtor's failure to receive notice, described in paragraph (b) of this section, mailed by FEMA to the debtor's last-known address, shall not impair the validity of offsets taken under this section.

(h) If FEMA or any other Federal department or agency incurs costs in taking offsets to collect delinquent debts, then the debtor shall be liable for such costs as administrative costs in accordance with section 11.48(d).

[63 FR 1066, Jan. 8, 1998]

§ 11.44 [Reserved]

§ 11.45 Collection by salary offset.

(a) *General.* Where an individual is an employee of the Federal Government or a member of the Armed Forces or a reserve component of the Armed Forces or is receiving retired or retainer pay for service as a Federal employee and where the individual is indebted to the United States and where the individual fails to satisfy his indebtedness voluntarily after the Agency has made demands in accordance